

## Terms and Conditions of Purchase of INDEX-Werke GmbH & Co. KG Hahn & Tessky (Updated 03/2022)

### I. Applicable Scope / Defense Clause / Written Form

1. The following Terms and Conditions apply for all contracts concluded between INDEX-Werke GmbH & Co. KG and Supplier. They also apply for all future business relations even if these conditions are not once again expressly agreed. Terms and conditions of Supplier that deviate from, are contrary to, or that are in addition to these Terms and Conditions will only become an integral component of the contract to the extent that we have expressly agreed to their applicability in writing. An unconditional acceptance of deliveries is not deemed to be consent.
2. References to the applicability of statutory provisions are only for the purpose of clarification. Therefore, the statutory provisions also apply without such clarification insofar as they are not directly modified or expressly excluded in these Terms and Conditions of Purchase.
3. The written form in these Terms and Conditions is also maintained by means of email and telefax.

### II. Contract Formation

1. Our orders, supplementation and modifications of an order made verbally or by telephone require our written confirmation.
2. Insofar as not otherwise stated in our orders, we are obligated by our order two weeks from the date of placing the order. This does not affect our right to cancel the order up until the date of receipt of Supplier's written acceptance, confirming terms identical to that of our order. Determinative for the timeliness of the acceptance is our receipt of the notification of acceptance.
3. Amendments to and supplementation of a contract require our written confirmation.
4. We may withdraw from a contract either entirely or in part if we no longer require the goods or no longer require them in the quantity agreed due to labor disputes, operational disruptions or other unforeseeable circumstances.

### III. Goods / Quality Requirements

1. Our written order and the specifications and production documents (drawings, samples, etc.) are determinative for the content, type and quantity of the goods. Supplier's obligation to evaluate all order and other contractual documents for their completeness, accuracy and suitability for the intended purpose and to promptly advise us of discrepancies and errors in writing, along with Supplier's responsibility for their implementation remains unaffected hereby.
2. The goods must be delivered with complete documentation (e.g., preferential supplier statement, operating and maintenance manual, safety provisions, safety data sheet, technical documentation for the CE marking) in the German language and also at our discretion in English, French and/or Italian. Supplier must promptly inform us of any modification made to the original characteristics.
3. If the goods are produced according to our specifications, these goods require a final inspection. The final inspection is to be done as soon as functional testing has demon-

strated that the goods are free of defects or at most, exhibit immaterial defects. A record of the final inspection will be generated that is to be signed by both parties.

4. Insofar as Supplier renders services at our premises, Supplier shall comply with our relevant regulations (e.g., house rules, safety provisions), which we will make available upon request. The storage of materials may only be undertaken after obtaining our agreement in advance; workspaces must be maintained in an accident-proof state at all times and left clear and cleaned up at the end of each work day.
5. If the goods consist either entirely or in part of software, Supplier grants us a nonexclusive, transferable and irrevocable right of use in the software that is not limited in terms of time or location. In principle, we are entitled to duplicate the software insofar as required to utilize it according to the contract. Supplier shall deliver documentation in printable form in the German language. We may request that Supplier conclude a customary maintenance agreement and deposits the source code (e. g. with TÜV Süd) at our expense.
6. Supplier must identify its preliminary suppliers upon request. We may reject a preliminary supplier for good cause; if this results in postponements or cost changes, we will come to an agreement with Supplier.
7. For a time period of at least ten years after delivery, Supplier shall supply us with replacement and support components at prices customary in the market for the goods delivered to us. If Supplier intends to discontinue the production of these replacement and support components, Supplier shall inform us—irrespective of the obligation pursuant to sentence 1—at least three months prior to cessation of production.
8. Supplier is not authorized to have the services owed by Supplier rendered by a third party (e.g., subcontractors) without our prior written consent. Supplier bears the procurement risk for its services unless these involve customized production.
9. The goods must be produced with the best suited materials and tools in perfect condition and be in conformity with our disclosed technical specifications, and the respective applicable ISO standards, European and German standards, statutory provisions (in particular those of the German Product Safety Act), industry association guidelines and the like, as well as the state of the art. This is also the quality standard for the goods even without an express agreement.
10. Accepting packaged goods does not represent an acceptance of delivery of the goods for the purpose of contract fulfillment. In any case, we reserve the right to inspect the goods after delivery.
11. We are authorized, within the scope of what is reasonable, to request modifications of the goods in terms of their design and drawings with a commensurate change in the prices and delivery times.
12. Supplier is obligated to continually assess and improve upon the quality of the goods. Upon Supplier's request, we are prepared to discuss the nature and scope of the testing, means of testing and methods, and agree upon these in written form, taking into account the available knowledge, experience and state of the art. Samples must be submitted to us for acceptance prior to series deliveries.

Similarly, the obligation to assess the quality also includes the supplies provided pursuant to item VIII.3 while they are in Supplier's possession. If Supplier is only a distributor for the goods, Supplier is obligated to inspect for defects prior to delivery.

13. Supplier must inform us of changes to its production sequences, production location, the materials used, and preliminary suppliers unless any influence on the quality or condition of the items delivered for the intended purposes is recognizably precluded.
14. The goods may not infringe upon the rights of third parties either domestically or abroad (in particular, trademark, patent or other industrial property rights).

#### **IV. Delivery Time**

1. The delivery time stated by us in the order is binding. The time periods commence with our written order.
2. Supplier's partial deliveries are only permissible upon obtaining our prior written consent.
3. Supplier is obligated to promptly inform us in writing if it is foreseeable that Supplier cannot comply with agreed delivery times. If Supplier is in default, we are entitled to the statutorily available claims and rights. Furthermore, a delay in delivery entitles us to demand for every completed week exceeding the delivery date 0.5% of the net price of the total order, however, no more than 5% of the net price of the total order as a contractual penalty. This applies accordingly if there is a default with respect to partial deliveries. Compensatory damage claims remain unaffected hereby. A contractual penalty paid will be credited towards the compensatory damage claim. If we accept the delayed performance, we must assert a claim for the contractual penalty not later than with the final payment.

#### **V. Shipping / Acceptance of Delivery**

1. Shipping is at Supplier's risk and the terms are DAP within Germany to the location stated in the order. This also applies to any returns. Supplier is liable for complying with the stated shipment regulations.
2. To the greatest extent possible, Supplier should use environmentally friendly packaging. Upon request, Supplier must take back packaging for us free of charge from the agreed receiving destination.
3. The risk passes to us with delivery of the goods or at the agreed receiving destination. For machines and technical installations, as well as in the case of agreed functional testing/final inspection, risk does not pass to us until there is a written confirmation of a defect-free functional testing/final inspection process.
4. Supplier must attach a delivery note to every delivery in which is stated our order number, article number, the quantity, the delivery location and the description of the goods insofar as these are identified in our order. Otherwise, we are entitled to reject acceptance of delivery without this rejection resulting in claims accruing to Supplier. The costs resulting from this are borne by Supplier.
5. The statutory regulations apply to any delay on our part in accepting the goods. Supplier must also expressly offer us its services even if a certain or ascertainable calendar date is agreed for an action or cooperation on our part (e.g., providing materials). If we are in default for delay of ac-

ceptance, seller may demand compensation for its additional expenses according to statutory provisions (Section 304 German Civil Code [BGB]). If the contract relates to an unrepresentative item (customized production) to be manufactured by seller, seller is only entitled to further rights if we have committed to cooperation and are responsible for a failure to cooperate.

#### **VI. Prices / Invoicing / Payment**

1. The price stated in the order is binding and is to be understood as a fixed price, free domicile, in addition to statutory value added tax, including all ancillary services and expenses (e.g., assembly, installation, packaging, transportation, transportation insurance).
2. If significant changes in the market situation occur for us or if a significant reduction in the market prices of our products is apparent, Supplier must negotiate with us concerning an adjustment of the prices. If the negotiations fail, we may terminate existing contracts (in particular, framework agreements) observing a notice period that should adequately take account of the interests of both parties. In this case, Supplier can only charge us for the costs actually incurred for materials that are not otherwise usable. We also have a respective right to termination if Supplier's prices exceed the market level or are at least 3% above the prices of a comparable competitor and Supplier cannot offer us more competitive prices within a month after our written request therefor.
3. Invoices are to be delivered to us with the goods as a single copy according to statutory regulations, providing the number information for the packaging, the number of packages and the quantity of units for the delivery. Our article number and the order number must be stated for each item in the invoice if such a number is included in our order. If the invoice refers to goods of different orders, it must be stated which order is being completed with the delivery in each case.
4. We pay after receiving the services or the final inspection of the services according to the contract and receipt of a properly issued invoice within 14 days, deducting a 3% early payment discount, within 30 days without deduction. In any event, we are not in default until we have received a written warning letter.
5. Supplier may not assign to third parties the rights and claims against us to which Supplier is entitled without our prior written consent, either entirely or in part (however, Section 354a German Commercial Code [HGB] remains unaffected thereby).

## VII. Inspection / Defective Goods

1. For rights in the case of defects of quality and title for the goods (including incorrect and short delivery, defective assembly, inadequate documentation) and for other violations of Supplier obligations, the statutory regulations apply insofar as not otherwise specified below.
2. We will randomly sample the delivered items for inspection after receiving them in the regular course of business and thereby satisfy our commercial duty to inspect. If further inspections are required due to defects ascertained in the course of this sampling, Supplier must reimburse us for the resulting expenses.
3. If significant damages are imminent for us or our customer due to a delay in remedying a defect, we are entitled, also without prior request made to Supplier, to take corrective action or have a third party remedy the defects at the expense of Supplier. We will notify Supplier about this as soon as possible.
4. Included in the costs of subsequent performance (Section 439(2) BGB) are also removal and installation costs, the costs of detecting defects, and sorting costs.
5. Supplier bears its expenses for assessing a defect complaint and for corrective action even if there was no defect; for that matter, we are only liable for compensatory damages in the case of unjustified requests for the remedy of defects if we recognized or were grossly negligent in not recognizing that there was no defect.
6. The statute of limitations for our claims due to a defect in quality is 2 years, and for a defect in title, 4 years from the date of delivery or final inspection. Longer statute of limitation periods on account of other claims that are not based on a defect in the goods remain unaffected thereby. The statute of limitations period for in rem claims for restitution of property shall also remain unaffected thereby (Section 438(1)(1) BGB).
7. Defective parts of the goods remain at our disposal until their replacement; they become the property of Supplier upon their replacement.

## VIII. Security Interests / Supplies / Ownership

1. Supplier commits to releasing the security interests we granted to Supplier to the extent that their value exceeds the claim to be secured by more than 10%.
2. We reserve an ownership interest and copyright in images, plans, drawings, calculations, design designations, product descriptions and other documentation. Such documents are to be used exclusively for the purpose of contract performance and must be returned to us upon completion of the contract. The documents may not be disclosed to third parties, and namely, also not after termination of the contract. The duty to maintain confidentiality does not lapse until and insofar as the knowledge contained in the documents entrusted to Supplier has become part of the public domain.
3. Tools, devices, models and other materials that we make available to Supplier or that are otherwise supplied or directly delivered on our behalf to Supplier (collectively, "supplies") remain our property. These supplies may not be sold, transferred by way of security, pledged, transferred, nor used for or made accessible to third parties. These supplies must be insured by Supplier against all customary risks at Supplier's expense and stored as our

property and separately from the same or similar items owned by third parties or Supplier. Supplier may only use such supplies for the manufacture of our order and must promptly return the same upon our request. Supplier shall also impose these obligations upon its vicarious agents.

4. Supplier must immediately inform us about an impending attachment of the supplies as well as every other impairment of our rights, as well as inform us of any loss or damage to the supplies. Supplier is obligated to segregate the supplies.
5. Supplier shall undertake the processing, mixing or combining of supplies on our behalf. If, in the course of processing, mixing or combining of supplies with third-party goods, there remains a third-party property right, we acquire joint ownership in the new goods in proportion to the value of our supply to the other goods.
6. If there are improvements made to the supplies by Supplier in connection with carrying out the order, we also have a nonexclusive right of use for our own exploitation, free of charge in these improvements and any industrial property rights therein.
7. Supplier's duplication of the models, samples or other documents we provide or those that are prepared according to our specifications is only permissible insofar as required for processing the offer/fulfillment of the delivery. In this case, insofar as Supplier entrusts such documents to a preliminary supplier, Supplier must impose a corresponding obligation upon the preliminary supplier in writing prior to transferring the documents and submit this to us upon request.
8. Items manufactured according to our specifications may not be offered/supplied to third parties without our consent; this obligation also survives the expiration of the business relationship. If there are improvements accruing to Supplier based on our production documents, we also have a nonexclusive right of use for our own exploitation, free of charge after these improvements are made and to any industrial property rights therein.
9. We object to all forms of an expanded or extended retention of title, so that any agreed right of retention only applies until payment is made for the goods delivered to us and only for those goods delivered.

## IX. Confidentiality

1. Supplier is obligated to treat as strictly confidential all commercial and technical details of which Supplier becomes aware through the business relations with us as long as the information is not already in the public domain. Vicarious agents (also employees) of Supplier must be obligated accordingly; these obligations must be submitted to us upon request.
2. Insofar as not otherwise prohibited by copyright or other law, Supplier is not authorized to acquire a business secret by means of the observation, examination, dismantling or testing of the products or items we entrust to Supplier.
3. Supplier is only authorized with our prior written consent to call attention to an existing business relationship with us for advertising purposes.

4. Our prior written consent is required for Supplier to disclose the nature of the products manufactured on our behalf and according to our specifications for Supplier's own advertising purposes.

#### **X. Product Liability**

1. If Supplier is responsible for a product defect, Supplier must indemnify us for third-party claims insofar as the cause falls under the control and organization of Supplier and Supplier is liable in relation to third parties.
2. In this context, Supplier is also obligated to reimburse us for any expenses pursuant to Sections 683, 670 BGB that arise from or in connection with a measure undertaken by us or our customer for averting harm (e.g., recall) insofar as we or our customer were obligated to do so or the measure was reasonable. Insofar as possible and reasonable, we will notify Supplier about the substance and scope of the measure and provide Supplier with an opportunity to state its position.
3. Irrespective of culpability, if a claim is asserted against us by a third party domestically or abroad due to a product defect for which Supplier is responsible, Supplier is liable towards us accordingly. The same rules governing the burden of proof apply to the relationship between us and Supplier as that of the relationship between us and the third party.
4. Supplier commits to maintain product liability insurance with a flat coverage amount of EUR 2.5 million per each instance of personal injury or property damage. The insurance certificates must be submitted to us upon request. Our claims for compensatory damages remain unaffected thereby.

#### **XI. Human Rights and Environment-related Standards / Minimum Wage / Data Privacy**

1. We expect that Supplier will carry out the appropriate measures in order to prevent risks related to human rights and the environment within the meaning of Section 2 (2) and Section 2 (3) German Supply Chain Act or to minimize such risks or to put an end to the violation of such obligations and that Supplier also addresses our expectations along its entire supply chain. We are entitled, upon providing timely notice, to evaluate or have evaluated by a third party on an annual basis or as warranted, compliance with the above-mentioned requirements and in so doing, also enter into Supplier's business premises and plants, as well inspect the relevant business records. In the course of this, we will only employ third parties that are obligated to maintain confidentiality as part of their profession or those who are expressly obligated to maintain confidentiality and take into consideration Supplier's legitimate interests in confidentiality. We bear the costs of this evaluation unless significant violations of the requirements are discovered, in which case, Supplier bears the costs of the inspection.
2. In particular, Supplier must comply with all EU regulations on safety and environmental protection and the regulations of minimum wage laws; Supplier will indemnify us in the event of claims asserted by third parties based on a violation of minimum wage laws by Supplier or of its sub-suppliers.
3. Supplier shall implement appropriate measures in order to prevent criminal culpability on account of fraud, breach of trust, criminal acts against free competition, accepting or

granting advantage, bribery, corruptibility or other corruption-based criminal offenses on the part of persons employed by Supplier or a third party.

4. Furthermore, Supplier shall ensure in the case of its vendors and sub-suppliers that the goods delivered to us are free of certain minerals (e.g., tantalum, tin, gold or tungsten) that are extracted in the conflict region of the Democratic Republic of Congo (DRC) or its neighboring states.
5. Supplier must observe the relevant data protection provisions and will obligate the individuals employed by Supplier to act with integrity and maintain confidentiality according to the data protection basic regulation.
6. In the event of a violation of an obligation of this section, we may terminate the business relationship with Supplier. In advance of this, we will set a reasonable period for remedial action, provided that there are not special reasons that justify immediate termination when weighing the interests of both parties.

#### **XII. Final Provisions**

1. The place of performance is the location of our registered office. The exclusive jurisdiction is the competent court for the location of our registered office; however, we are also entitled to assert claims at the location of Supplier's registered office.
2. German law applies excluding the UN purchase law (CISG).
3. If one or more provisions of these Conditions is or becomes invalid, the validity of the remaining provisions shall not be affected thereby.